

**REMARKS**

The Examiner has rejected claim 1 under 35 U.S.C. § 102(e) as being anticipated by Ham et al. U.S. Patent No. 5,456,667. Claim 7 is allowed.

Claim 1 is amended herein to clarify that the tube consists of a monolithic, solid side-wall, as shown in the Figures, with the slotted retrieval basket section formed monolithically between two non-slotted, solid side-wall sections. The monolithic nature of the device of the present invention was discussed in detail in the interview of June 13, 2002 and in the Reply of June 19, 2002. The recitation of a "monolithic memory metal tube of single-piece wall construction . . . consisting of a monolithic side-wall having two non-slotted, solid sections and a slotted section therebetween and monolithic therewith having a plurality of slots formed therein" precludes the distal collar 31 and control wire 13 of the Ham et al. device.

Adhesively bonding the collar 31 to the expandable region 12 and fixing a wire into the collar 31 forms at least a three-piece tube in which the side-wall is not monolithic, but rather contains adhesively joined separate parts. (See Col. 3, lines 30-58 and Col. 5, lines 58-66.) The Ham et al. device does not teach or suggest a single wall construction with two non-slotted sections monolithic with an intermediate slotted section. Therefore, as clarified by the amendment herein, claim 1 is not anticipated by Ham et al., and it is respectfully requested that the rejection be withdrawn.

Claim 21 is added herein, depending from claim 1, to further specify the lack of internal structure in the device of the present invention, which structure exists in the Ham et al. device and which structure would prevent the retrieval basket in the device of the present invention from surroundingly contacting, capturing and retrieving the at least one particle.

While the "surroundingly contact, capture and retrieve at least one particle" language was previously added to distinguish over the Ham et al. patent, as agreed to in the interview of September 6, 2001, the Examiner has apparently now concluded that the language is insufficient. Thus, claim 21 is now added to further address the distinction between Applicant's device and the Ham et al. device. Specifically, Ham et al.'s device includes a distal collar 31 to which the expandable region 12 is bonded, such as by adhesive, and into which is fixed the distal end of control wire 13 that extends through the expandable region. This control wire 13 is operated to move the distal collar 31 to adjust the axial spacing between the ends of the expandable region, and thus the radial dimension of the expandable region. Thus, the control wire 13 is operated to expand and contract the expandable region. (See Col. 3, lines 30-58 and Col. 5, lines 58-66.) In the device of the present invention, however, there is no structure inside the retrieval basket for operating to expand and contract the basket. Rather, the retrieval basket is operable by the application of a temperature change or a mechanical influence from surrounding material. The device of the present invention was developed to avoid the multi-piece devices such as Ham et al. For at least these reasons, claim 21 is further allowable over the Ham et al. patent, and a Notice of Allowability to that effect is respectfully requested.


The arguments presented herein are similar to that presented in the Applicant's October 2, 2001 Reply and June 19, 2002 Reply, differing mainly in the presentation of additional language in the claims in support of the argument. Thus, Applicant's suggest that no new search need be performed as a result of this amendment, such that the amendment after final is appropriately entered.

In view of the foregoing amendments to the claims and remarks given herein, Applicants respectfully believe this case is in condition for allowance and respectfully request that a Notice of Allowability be issued for all pending claims. If the Examiner believes any detailed language of the claims requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants are of the opinion that no additional fee is due as a result of this amendment. If any charges or credits are necessary to complete this communication, please apply them to deposit account no. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By:   
Kristi L. Davidson, Reg. No. 44,643

2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202  
(513) 241-2324 (voice)  
(513) 421-7269 (facsimile)  
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